

Introduced by Senator Ducheny

February 23, 2007

An act to amend Section 25201.5 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 817, as introduced, Ducheny. Hazardous waste: treatment: silver.

(1) Existing law requires hazardous waste facilities to operate under hazardous waste facilities permits issued by the Department of Toxic Substances Control (department) pursuant to the hazardous waste control laws. "Non-RCRA hazardous waste" is defined, for purposes of those laws, as meaning hazardous waste that is regulated by the state, other than hazardous waste subject to the federal Resource Conservation and Recovery Act of 1976 (RCRA). Certain hazardous waste treatment activities are exempted from the requirement for obtaining a hazardous waste facilities permit, if the generator complies with specified treatment limitations, procedures, and notification requirements. Wastes containing silver or silver compounds that are hazardous waste under RCRA solely due to the presence of silver in these wastes are required to be subject to regulation solely to the extent these wastes are regulated under RCRA, except as specified with regard to the treatment of wastes from photoimaging solutions and wastewaters.

A violation of the hazardous waste control law is a crime.

This bill would additionally include, in the exemption from the requirement for obtaining a hazardous waste facilities permit, a hazardous waste treatment activity in which the generator treats spent photoimaging solutions that are hazardous solely due to their silver content, if specified conditions are met.

Since a violation of these treatment requirements would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25201.5 of the Health and Safety Code
2 is amended to read:

3 25201.5. (a) Notwithstanding any other provision of law, a
4 hazardous waste facilities permit is not required for a generator
5 who treats hazardous waste of a total weight of not more than 500
6 pounds, or a total volume of not more than 55 gallons, in any
7 calendar month, if both of the following conditions are met:

8 (1) The hazardous waste is not an extremely hazardous waste
9 and is listed in Section 67450.11 of Title 22 of the California Code
10 of Regulations, as in effect on January 1, 1992, as eligible for
11 treatment pursuant to the regulations adopted by the department
12 for operation under a permit-by-rule and the treatment technology
13 used is approved for that waste stream in Section 67450.11 of Title
14 22 of the California Code of Regulations for treatment under a
15 permit-by-rule.

16 (2) The generator is not otherwise required to obtain a hazardous
17 waste facilities permit or other grant of authorization for any other
18 hazardous waste management activity at the facility.

19 (b) Notwithstanding any other provision of law, treatment in
20 the following units is ineligible for exemption pursuant to
21 subdivision (a) or (c):

- 22 (1) Landfills.
- 23 (2) Surface impoundments.
- 24 (3) Injection wells.
- 25 (4) Waste piles.
- 26 (5) Land treatment units.
- 27 (6) Thermal destruction units.

1 (c) Notwithstanding any other provision of law, a hazardous
2 waste facilities permit or other grant of authorization is not required
3 to conduct the following treatment activities, if the generator treats
4 the following hazardous waste streams using the treatment
5 technology required by this subdivision:

6 (1) The generator mixes or cures resins mixed in accordance
7 with the manufacturer's instructions, including the mixing or curing
8 of multicomponent and preimpregnated resins in accordance with
9 the manufacturer's instructions.

10 (2) The generator treats a container of 110 gallons or less
11 capacity, which is not constructed of wood, paper, cardboard,
12 fabric, or any other similar absorptive material, for the purposes
13 of emptying the container as specified by Section 66261.7 of Title
14 22 of the California Code of Regulations, as revised July 1, 1990,
15 or treats the inner liners removed from empty containers that once
16 held hazardous waste or hazardous material. The generator shall
17 treat the container or inner liner by using the following
18 technologies, if the treated containers and rinseate are managed in
19 compliance with the applicable requirements of this chapter:

20 (A) The generator rinses the container or inner liner with a
21 suitable liquid capable of dissolving or removing the hazardous
22 constituents which the container held.

23 (B) The generator uses physical processes, such as crushing,
24 shredding, grinding, or puncturing, that change only the physical
25 properties of the container or inner liner, if the container or inner
26 liner is first rinsed as provided in subparagraph (A) and the rinseate
27 is removed from the container or inner liner.

28 (3) The generator conducts drying by pressing or by passive or
29 heat-aided evaporation to remove water from wastes classified as
30 special wastes by the department pursuant to Section 66261.124
31 of Title 22 of the California Code of Regulations.

32 (4) The generator conducts magnetic separation or screening to
33 remove components from wastes classified as special wastes by
34 the department pursuant to Section 66261.124 of Title 22 of the
35 California Code of Regulations.

36 (5) The generator neutralizes acidic or alkaline wastes which
37 are hazardous solely due to corrosivity or toxicity resulting from
38 the presence of acidic or alkaline material from food or food
39 byproducts, and alkaline or acidic waste, other than wastes
40 containing nitric acid, at SIC Code Major Group 20, food and

1 kindred product facilities, as defined in ~~subdivision (p)~~ of Section
2 25501, if both of the following conditions are met:

3 (A) The neutralization process does not result in the emission
4 of volatile hazardous waste constituents or toxic air contaminants.

5 (B) The neutralization process is required in order to meet
6 discharge or other regulatory requirements.

7 (6) Except as provided for specific waste streams in Section
8 25200.3, the generator conducts the separation by gravity of the
9 following, if the activity is conducted in impervious tanks or
10 containers constructed of noncorrosive materials, the activity does
11 not involve the addition of heat or other form of treatment, or the
12 addition of chemicals other than flocculants and demulsifiers, and
13 the activity is managed in compliance with applicable requirements
14 of federal, state, or local agency or treatment works:

15 (A) The settling of solids from waste where the resulting
16 aqueous stream is not hazardous.

17 (B) The separation of oil/water mixtures and separation sludges,
18 if the average oil recovered per month is less than 25 barrels.

19 (7) The generator is a laboratory which is certified by the State
20 Department of Health Services or operated by an educational
21 institution, and treats wastewater generated onsite solely as a result
22 of analytical testing, or is a laboratory which treats less than one
23 gallon of hazardous waste, which is generated onsite, in any single
24 batch, subject to the following:

25 (A) The wastewater treated is hazardous solely due to
26 corrosivity or toxicity that results only from the acidic or alkaline
27 material, as defined in Section 66260.10 of Title 22 of the
28 California Code of Regulations, or is excluded from the definition
29 of hazardous waste by subparagraph (E) of paragraph (2) of
30 subsection (a) of Section 66261.3 of Title 22 of the California
31 Code of Regulations, or both.

32 (B) The treatment meets all of the following requirements, in
33 addition to all other requirements of this section:

34 (i) The treatment complies with all applicable pretreatment
35 requirements.

36 (ii) Neutralization occurs in elementary neutralization units, as
37 defined in Section 66260.10 of Title 22 of the California Code of
38 Regulations; wastes to be neutralized do not contain any more than
39 10 percent acid or base concentration by weight, or any other
40 concentration limit which may be imposed by the department; and

vessels and piping for neutralization are constructed of materials that are compatible with the range of temperatures and pH levels, and subject to appropriate pH temperature controls.

(iii) Treatment does not result in the emission of volatile hazardous waste constituents or toxic air contaminants.

(8) The hazardous waste treatment is carried out in a quality control or quality assurance laboratory at a facility that is not an offsite hazardous waste facility and the treatment activity otherwise meets the requirements of paragraph (1) of subdivision (a).

(9) Any waste stream technology combination certified by the department, pursuant to Section 25200.1.5, as suitable for authorization pursuant to this section, that operates pursuant to the conditions imposed on that certification.

~~(10) The generator uses any technology that is certified by the department, pursuant to Section 25200.1.5, as effective for the treatment of formaldehyde or glutaraldehyde solutions used in health care facilities that are operated pursuant to the conditions imposed on the certification and which makes the operation appropriate to this tier. The technology may be certified using a pilot certification process until the department adopts regulations pursuant to Section 25200.1.5. This paragraph shall be operative only until April 11, 1996.~~

(10) The generator treats spent photoimaging solutions that are hazardous solely due to their silver content, if all of the following conditions are met:

(A) The total quantity of photoimaging solution treated in any calendar month does not exceed 27 gallons.

(B) The photoimaging solution is treated using either of the following:

(i) A sorbent that immobilizes the silver so that the resulting nonliquid product no longer exhibits any characteristic of a hazardous waste.

(ii) Any other technology that the department may approve for the treatment of photoimaging solutions pursuant to this section, if the resulting nonliquid product no longer exhibits any characteristic of a hazardous waste.

(C) If a sorbent is used to treat the photoimaging solution, in accordance with clause (i) of subparagraph (B), the sorbent is shown to meet the criteria for a nonbiodegradable sorbent, as

1 *provided in Section 66264.314 of Title 22 of the California Code*
2 *of Regulations, as that section read January 1, 2008.*

3 (d) A generator conducting treatment pursuant to subdivision
4 (a) or (c) shall meet all of the following conditions:

5 (1) The waste being treated is generated onsite, and a residual
6 material from the treatment of a hazardous waste generated offsite
7 is not a waste that has been generated onsite.

8 (2) The treatment does not require a hazardous waste facilities
9 permit pursuant to the federal act.

10 (3) The generator prepares and maintains written operating
11 instructions and a record of the dates, amounts, and types of waste
12 treated.

13 (4) The generator prepares and maintains a written inspection
14 schedule and log of inspections conducted.

15 (5) The records specified in paragraphs (3) and (4) are
16 maintained onsite for a period of three years.

17 (6) The generator maintains adequate records to demonstrate
18 that it is in compliance with all applicable pretreatment standards
19 and with all applicable industrial waste discharge requirements
20 issued by the agency operating the publicly owned treatment works
21 into which the wastes are discharged.

22 (7) (A) Not less than 60 days before commencing treatment of
23 hazardous waste pursuant to this section, the generator shall submit
24 a notification, in person or by certified mail, with return receipt
25 requested, to the department and to one of the following:

26 (i) The CUPA, if the generator is under the jurisdiction of a
27 CUPA.

28 (ii) If the generator is not under the jurisdiction of a CUPA, the
29 notification shall be submitted to the officer or agency authorized,
30 pursuant to subdivision (f) of Section 25404.3, to implement and
31 enforce the requirements of this chapter listed in paragraph (1) of
32 subdivision (c) of Section 25404.

33 (B) Upon demonstration of good cause by the generator, the
34 department may allow a shorter time period, than the 60 days
35 required by subparagraph (A), between notification and
36 commencement of hazardous waste treatment pursuant to this
37 section.

38 (C) The notification submitted pursuant to this paragraph shall
39 be completed, dated, and signed in accordance with the
40 requirements of Section 66270.11 of Title 22 of the California

1 Code of Regulations, as those requirements apply to permit
2 applications, shall be on a form prescribed by the department, and
3 shall include, but not be limited to, all of the following information:

4 (i) The name, identification number, site address, mailing
5 address, and telephone number of the generator to whom the
6 conditional exemption applies.

7 (ii) A description of the physical characteristics and chemical
8 composition of the hazardous waste to which the conditional
9 exemption applies.

10 (iii) A description of the hazardous waste treatment activity to
11 which the conditional exemption applies, including, but not limited
12 to, the basis for determining that a hazardous waste facilities permit
13 is not required under the federal act.

14 (iv) A description of the characteristics and management of any
15 treatment residuals.

16 (D) The development and publication of the notification form
17 required under this paragraph is not subject to Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3 of Title
19 2 of the Government Code. The department shall hold at least one
20 public workshop concerning the development of the notification
21 form.

22 (E) Any notification submitted pursuant to this paragraph shall
23 supersede any prior notice of intent submitted by the same
24 generator in order to obtain a permit-by-rule under the regulations
25 adopted by the department. This subparagraph does not require
26 the department to refund any fees paid for any application in
27 conjunction with the submission of a notice of intent for a
28 permit-by-rule.

29 (8) (A) Upon terminating operation of any treatment process
30 or unit exempted pursuant to this section, the generator who
31 conducted the treatment shall remove or decontaminate all waste
32 residues, containment system components, soils, and other
33 structures or equipment contaminated with hazardous waste from
34 the unit. The removal of the unit from service shall be conducted
35 in a manner that does both of the following:

36 (i) Minimizes the need for further maintenance.

37 (ii) Eliminates the escape of hazardous waste, hazardous
38 constituents, leachate, contaminated runoff, or waste decomposition
39 products to the environment after treatment process is no longer
40 in operation.

(B) Any owner or operator who permanently ceases operation of a treatment process or unit that is conditionally exempted pursuant to this section shall, upon completion of all activities required under this subdivision, provide written notification in person or by certified mail, with return receipt requested, to the department and to one of the following:

(i) The CUPA, if the generator is under the jurisdiction of a CUPA.

(ii) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to the officer or agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(9) The waste is managed in accordance with all applicable requirements for generators of hazardous waste under this chapter and the regulations adopted by the department pursuant to this chapter.

(10) Except as provided in Section 25404.5, the generator submits a fee in the amount required by Section 25205.14, unless the generator is subject to a fee under a permit-by-rule or a grant of conditional authorization pursuant to Section 25200.3. The generator shall submit that fee within 30 days of the date that the fee is assessed by the State Board of Equalization, in the manner specified by Section 43152.10 of the Revenue and Taxation Code.

(e) (1) Unless otherwise required by federal law, ancillary equipment for a tank or container treating hazardous wastes solely pursuant to this section is not subject to Section 66265.193 of Title 22 of the California Code of Regulations, if the ancillary equipment's integrity is attested to pursuant to Section 66265.191 of Title 22 of the California Code of Regulations every two years from the date that retrofitting requirements would otherwise apply.

(2) (A) The Legislature hereby finds and declares that, in the case of underground, gravity-pressured sewer systems, integrity testing is often not feasible.

(B) The department shall, by regulation, determine the best feasible leak detection measures which are sufficient to ensure that underground gravity-pressured sewer systems, for which it is not feasible to conduct integrity testing, do not leak.

(C) If it is not feasible for an operator's ancillary equipment, or a portion thereof, to undergo integrity testing, the operator shall

1 not be subject to Section 66265.193 of Title 22 of the California
2 Code of Regulations, if the operator implements the best feasible
3 leak detection measures that are determined to be sufficient by the
4 department in those regulations, and those leak detection measures
5 do not reveal any leaks emanating from the operator's ancillary
6 equipment. Any ancillary equipment found to leak shall be
7 retrofitted by the operator to meet the full secondary containment
8 standards of Section 66265.196 of Title 22 of the California Code
9 of Regulations.

10 (f) Nothing in this section shall abridge any authority granted
11 to the department, a unified program agency, or local health officer
12 or local public officer designated pursuant to Section 25180, by
13 any other provision of law to impose any further restrictions or
14 limitations upon facilities subject to this section, that the
15 department, a unified program agency, or local health officer or
16 local public officer designated pursuant to Section 25180,
17 determines to be necessary to protect human health or the
18 environment.

19 (g) A generator that would otherwise be subject to this section
20 may contract with the operator of a transportable treatment unit
21 who is operating pursuant to this section to treat the generator's
22 waste. If treatment of the generator's waste takes place under such
23 a contract, the generator is not otherwise subject to the
24 requirements of this section, but shall comply with all other
25 requirements of this chapter that apply to generators. The operator
26 of the transportable treatment unit shall comply with all of the
27 applicable requirements of this section and, for purposes of this
28 section, the operator of the transportable treatment unit shall be
29 deemed to be the generator.

30 (h) A generator conducting activities~~which~~ *that* are exempt
31 from this chapter pursuant to Section 66261.7 of Title 22 of the
32 California Code of Regulations, as that section read on January 1,
33 1993, is not required to comply with this section.

34 (i) (1) Within 30 days of any change in operation which
35 necessitates modifying any of the information submitted in the
36 notification required pursuant to paragraph (7) of subdivision (d),
37 a generator shall submit an amended notification, in person or by
38 certified mail, with return receipt requested, to the department and
39 to one of the following:

1 (A) The CUPA, if the generator is under the jurisdiction of a
2 CUPA.

3 (B) If the generator is not under the jurisdiction of a CUPA, the
4 notification shall be submitted to the officer or agency authorized,
5 pursuant to subdivision (f) of Section 25404.3, to implement and
6 enforce the requirements of this chapter listed in paragraph (1) of
7 subdivision (c) of Section 25404.

8 (2) Each amended notification made pursuant to this subdivision
9 shall be completed, dated, and signed in accordance with the
10 requirements of Section 66270.11 of Title 22 of the California
11 Code of Regulations, as those requirements apply to hazardous
12 waste facilities permit applications.

13 (j) A person who submitted a notification to the department
14 pursuant to paragraph (7) of subdivision (d) shall be deemed to be
15 operating pursuant to this section, and, except as provided in
16 Section 25404.5, shall be subject to the fee set forth in subdivision
17 (c) of Section 25205.14 until that person submits a certification
18 that the generator has ceased all treatment activities of hazardous
19 waste streams authorized pursuant to this section in accordance
20 with the requirements of paragraph (8) of subdivision (d). The
21 certification required by this subdivision shall be submitted, in
22 person or by certified mail, with return receipt requested, to the
23 department and to one of the following:

24 (1) The CUPA, if the generator is under the jurisdiction of a
25 CUPA.

26 (2) If the generator is not under the jurisdiction of a CUPA, the
27 notification shall be submitted to the officer or agency authorized,
28 pursuant to subdivision (f) of Section 25404.3, to implement and
29 enforce the requirements of this chapter listed in paragraph (1) of
30 subdivision (c) of Section 25404.

31 SEC. 2. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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